S.B. CIVIL WRIT PETITION NO. 3990/2004.

(DILIP KUMAR VS. STATE & ORS.)

DATE OF ORDER : 14.11.2006.

HON'BLE MR. GOVIND MATHUR, J.

Mr. Mukesh Rajpurohit for the petitioner/s.
Mr. B.L. Tiwari, Dy.GA, for the respondent/s.

The petitioner was employed as a daily rated Class IV employee with the respondents on 16.04.93 and he was retrenched from service w.e.f. 07.02.1994. Being aggrieved by the same, he raised an industrial dispute, that was referred for its adjudication to the Labour Court, Jodhpur. The Labour Court, Jodhpur by its award dated 28.03.1998 while setting aside the retrenchment of the petitioner directed the respondents to reinstate him in service with 50% of back wages. In pursuant thereto, the respondents reinstated the petitioner as a daily rated employee under an order dated 22.11.2003. Since then the petitioner is discharing the duties of a Class IV employee.

The grievance of the petitioner is that he is discharging the duties exactly similar to the other Class IV employees, but is not paid wages in the pay scale prescribed for Class IV employees.

Per contra, it is contended by counsel for the respondents that the appointment of the petitioner was not

made in accordance with the procedure prescribed in the relevant rules, therefore, no regular pay scale can be given to him.

Heard counsel for the parties.

May it be true that the appointment was not given to the petitioner in regular pay scale and, therefore, he cannot be equated to the regularly selected Class IV employees for other statutory service conditions, but undoubtedly he is discharging the duties of a Class IV employee i.e. similar to the other Class IV employees, therefore, he is entitled to get minimum of wages in the pay scale prescribed for Class IV employees in light of the Article 14 and 39(d) of the Constitution of India.

In view of it, this petition for writ deserves acceptance, the same, therefore, is allowed. The respondents are directed to allow pay of the petitioner at the minimum of the regular pay scale prescribed for Class IV employees along with other admissible allowances. The petitioner shall not be entitled for any annual increment. The fixation of the petitioner's pay in the terms above is required to be made from the date of filing of the present writ petition i.e. 31.08.2004.

No order to cost.

(GOVIND MATHUR)J.

Anil/